

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Omolade	Team: Team # 2	CCRB Case #: 201404934	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/15/2014 12:00 PM	Location of Incident: Juniper Valley Road and 80th Street	Precinct: 104	18 Mo. SOL 11/15/2015	EO SOL 11/15/2015	
Date/Time CV Reported Tue, 05/20/2014 3:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/20/2014 3:47 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Louis Marinacci	22579	941229	104 PCT
2. DTS Anthony Wright	4255	935991	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Anthony Wright	Abuse: Det. Anthony Wright searched the car in which § 87(2)(b) was an occupant.	
B.POM Louis Marinacci	Abuse: PO Louis Marinacci searched the car in which § 87(2)(b) was an occupant.	

### Case Summary

On May 20, 2014, § 87(2)(b) filed this complaint with the CCRB via phone (encl. 4a). On May 15, 2014, at approximately 12 p.m., officers stopped § 87(2)(b)'s vehicle near Juniper Valley Road and 80th Street, in Queens. The following allegations resulted:

- **Allegation A: Abuse of Authority: Det. Anthony Wright searched the car in which § 87(2)(b) was an occupant.**
- **Allegation B: Abuse of Authority: PO Louis Marinacci searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

This case was originally assigned to Investigator Katherine Broeksmit, and on July 17, 2014, this case was reassigned to Investigator Hannah Omolade upon Investigator Broeksmit's resignation from the agency. This case was not eligible for mediation.

### Results of Investigation

#### Civilian Statement

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) at the time of this incident. He is a 6'3" tall, 240-pound, white man with brown hair and blue eyes.

#### Evidentiary Photos

§ 87(2)(b) provided five photos of his vehicle's interior which depict varying angles of the center console (encl. 5g – 5m). The photos indicate that the top shallow tray of the console obstructs all vision into the lower deeper compartment.

#### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on July 15, 2014 (encl. 5a – 5r). This same day, he provided a typed statement to the CCRB (encl. 5f). On August 1, 2014, § 87(2)(b) provided additional information via phone (encl. 6a). § 87(2)(g)

On May 15, 2014, at approximately 12 p.m., § 87(2)(b) was driving his 2004 white Nissan Pathfinder on 80<sup>th</sup> Street near Metropolitan Avenue, in Queens, when he was stopped by officers. § 87(2)(b) denied committing any traffic infractions, but acknowledged that he drove through two yellow traffic lights as they may have been turning red.

PO Louis Marinacci and Det. Anthony Wright of the 104<sup>th</sup> Precinct were identified via the investigation as the officers who stopped § 87(2)(b) (see encl. 5d – 5e for officer descriptions). PO Marinacci approached the driver's side of § 87(2)(b)'s vehicle while Det. Wright approached the passenger side. PO Marinacci requested § 87(2)(b)'s identification, but did not request his registration or insurance. PO Marinacci informed § 87(2)(b) that he observed him run two red lights and asked him if he was intoxicated or had consumed narcotics. § 87(2)(b) denied being impaired at the time of this incident.

Apart from retrieving his identifications from his back pants pocket, § 87(2)(b) kept his hands on the steering wheel. He never reached into the glove compartment.

Det. Wright asked § 87(2)(b) to step out of the vehicle so Det. Wright could “check” or “make sure” [that § 87(2)(b) was not intoxicated]. § 87(2)(b) complied, believing that he was agreeing to a sobriety test. However, upon exiting his vehicle he turned around to see Det. Wright kneeling on the passenger’s seat and rummaging through the center console. § 87(2)(b) s center console is composed of a top tray and a deeper bottom compartment (for pictures of § 87(2)(b) s vehicle and center console, see encl. 5g – 5i). Det. Wright reached into the bottom compartment and removed a set of brass knuckles. The brass knuckles had four rings that are connected to a piece of brass that is held in the palm. Det. Wright was in the vehicle for less than a minute and only searched the center console.

§ 87(2)(b) never consented to the search of his vehicle and an officer never asked him to search the vehicle.

After § 87(2)(b) was handcuffed, he and Det. Wright stood at the rear of the vehicle while PO Marinacci entered § 87(2)(b) s vehicle, where he remained for a few minutes. § 87(2)(b) did not see what PO Marinacci did inside of the vehicle. A separate marked RMP containing uniformed officers transported § 87(2)(b) to the stationhouse while PO Marinacci drove § 87(2)(b) s vehicle to the precinct.

### **NYPD Statements:**

#### **Subject Officer: DET. ANTHONY WRIGHT**

- *Det. Wright was § 87(2)(b) old at the time of this incident. He is a 5’8” tall, 190-pound black man with brown hair and brown eyes.*
- *On May 15, 2014, Det. Wright worked from 9:30 a.m. to 6:05 p.m., as a Street Narcotics Enforcement Unit officer. In his memo book he noted that he was working with PO Michael Cappellano, but during his CCRB statement he clarified that he was working with PO Marinacci. Both officers were dressed in uniform.*

#### **Memo Book**

On May 15, 2014, at 12:05 p.m., Det. Wright conducted a car stop at 80<sup>th</sup> Street and Juniper Valley Road. At 12:12 p.m., one individual was placed under arrest by PO Marinacci (encl. 10a – 10b).

#### **CCRB Statement**

Det. Wright was interviewed at the CCRB on September 25, 2013 (encl. 11a – 11c).

On May 15, 2014, at approximately 12 p.m., Det. Marinacci initiated a car stop. Det. Wright did not recall the reason for the car stop and Det. Marinacci did not tell Det. Wright why he stopped § 87(2)(b). Det. Marinacci approached § 87(2)(b) s side of the vehicle, while Det. Wright approached the passenger side of the vehicle. Det. Wright did not recall seeing anything in the vehicle that sparked his immediate attention when he approached.

Det. Marinacci spoke with § 87(2)(b) for five to ten minutes. Det. Wright did not recall the nature of Det. Marinacci’s conversation with § 87(2)(b). § 87(2)(b) was asked to step out of the vehicle, which he complied. § 87(2)(b) was then arrested for § 87(2)(b). Det. Wright did not recall where or how the weapon was recovered. Neither did he recall whether PO Marinacci searched the vehicle. Det. Wright did not search § 87(2)(b) s vehicle. § 87(2)(b) was not under arrest until PO Marinacci asked him to step out of the vehicle. § 87(2)(b) was calm throughout the incident and the entire car stop was about five to ten minutes. Det. Wright did not recall whether they drove § 87(2)(b) s vehicle to the precinct, whether

they transported § 87(2)(b) to the precinct or whether they called another unit to transport him. Det. Wright did not search § 87(2)(b)'s vehicle at the precinct and he did not recall if Det. Marinacci did. Det. Wright did not recall if the vehicle was vouchered. Det. Wright went back to the precinct after § 87(2)(b) was arrested. Det. Wright did not recall if anything else was recovered. The criminal court complaint was shown to Det. Wright and it did not jog his memory.

**Witness Officer: PO LOUIS MARINACCI**

- PO Marinacci was § 87(2)(b) old at the time of this incident. He is a 5'7" tall, 185-pound white man with brown hair and brown eyes.
- On May 15, 2014, PO Marinacci worked from 9:30 a.m. to 6:05 p.m. as a Conditions officer with Det. Wright. Both officers were in uniform and assigned to unmarked vehicle 970.

**Memo Book**

On May 15, 2014, at 12:05 p.m., PO Marinacci conducted a stop at Juniper Valley Road. At 12:12 p.m., one individual was arrested for § 87(2)(b) (encl. 7a – 7c).

**Criminal Court Complaint**

The criminal court complaint notes that after PO Marinacci stopped the vehicle, § 87(2)(b) was reaching into his center console to obtain his license and registration at which point PO Marinacci observed black metal knuckles inside of the center console (encl. 5o – 5p).

**CCRB Statement**

PO Marinacci was interviewed at the CCRB on October 7, 2014 (encl. 9a – 9d). § 87(2)(g)

After § 87(2)(b)'s vehicle was legally stopped, § 87(2)(b) reached into his center console to retrieve his documentation. As he did so, PO Marinacci, who was standing on the driver's side of the vehicle, observed a set of brass knuckles in the top tray of his glove compartment. At that point, § 87(2)(b) was determined to be under arrest.

PO Marinacci did not recall whether Det. Wright entered § 87(2)(b)'s vehicle at any point, and he did not see him enter the lower compartment of the center console. Aside from removing the brass knuckles from the top tray of the center console, PO Marinacci did not conduct a further search of the vehicle at the scene or when he drove the vehicle to the stationhouse. § 87(2)(b)'s vehicle was not vouchered because he was eventually released with a desk appearance ticket.

**NYPD Document**

- Bronze brass knuckles, listed as belonging to § 87(2)(b) were vouchered as arrest evidence under property voucher § 87(2)(b) (encl. 12a).

**Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**Status of Civil Proceedings**

- On September 16, 2014, a request was submitted with the City of New York Law Department to determine whether § 87(2)(b) filed a Notice of Claim. The results are pending as of December 2, 2014 (encl. 17c).

#### **Civilians Criminal History**

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3a).

#### **Subject Officers CCRB History**

- Det. Wright has been a member of the service for ten years and there are three substantiated CCRB allegations against him (encl. 1a – 1b):
  - In CCRB case number 201305640, the CCRB panel substantiated vehicle search and detainment allegations against Det. Wright and recommended command discipline. The NYPD has yet to reach a disposition.
  - In CCRB case number 201311116, the CCRB panel substantiated a vehicle search allegation against Det. Wright and recommended charges. The NYPD has yet to reach a disposition.
- PO Marinacci has been a member of the service for eight years and there are five substantiated CCRB allegations against him (encl. 2a – 2b):
  - In CCRB case number 201104530, the CCRB panel substantiated frisk and question allegations against PO Marinacci and recommended command discipline. The NYPD issued instructions.
  - In CCRB case number 201311116, the CCRB panel substantiated search, vehicle search and threat of arrest allegations against PO Marinacci and recommended charges. The NYPD has yet to reach a disposition.

### **Conclusion**

#### **Identification of Subject Officers**

§ 87(2)(b) stated that two officers were at the incident location and both officers entered his vehicle. § 87(2)(g)

#### **Investigative Findings and Recommendations**

**Allegation A: Abuse of Authority: Det. Anthony Wright searched the car in which § 87(2)(b) was an occupant.**

**Allegation B: Abuse of Authority: PO Louis Marinacci searched the car in which § 87(2)(b) was an occupant.**

It is undisputed that PO Marinacci searched the center console of § 87(2)(b)'s vehicle and recovered brass knuckles. § 87(2)(g)

§ 87(2)(b) stated that his brass knuckles were in the bottom compartment of his center console, which is concealed by a top tray, as per the center console photos he provided to the CCRB (encl. 5g – 5i). § 87(2)(b) denied reaching into his center console during the entirety of the police interaction. He alleged that Det. Wright entered the bottom compartment of his

center console and PO Marinacci was inside of his vehicle but he did not see the specifics of his search.

PO Marinacci stated that while § 87(2)(b) was retrieving documentation from the center console, he observed the brass knuckles in plain view in the top tray of the console, which was confirmed by the criminal court complaint he prepared. PO Marinacci denied entering the bottom compartment. Det. Wright denied searching any portion of the vehicle and was unable to recall the circumstances surrounding the detection of the brass knuckles.

§ 87(2)(g)

§ 87(2)(g)

Team:   2  

Investigator:	_____	<u>Hannah Omolade</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date